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Michigan vehicle code and related laws concerning ...

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NOTE.—The numbers in parentheses (), are compiler's sections and run consecutively throughout the book. The section mark § at the head of a section, refers to the section of the Compiled Laws of 1915. The character / is used in citing Michigan cases, to avoid the repetition of Michigan Annotated with Supreme Court decisions to and including the 211th Michigan Report.

EXPLANATORY.

Certificate of Title Act.

1. This act became effective on the first day of July, 1921, and certificates of title are now being issued by the Secretary of State.

2. After July 1, 1922, no certificate of registration of any vehicle, or number plates therefor, whether original issues or duplicate issues, will be issued by the Secretary of State unless the applicant therefor shall, at the same time, make application for, and be granted, an official certificate of title, or the applicant shall present satisfactory evidence that such a certificate covering the motor vehicle has been previously issued to the applicant.

3. The operation of a motor vehicle in this state under a registration number of this state after July 1, 1922, without the securing of a certificate of title, as provided in this act, is made a misdemeanor and punishable by a fine of not less than \$25.00 nor more than \$1,000.

4. After the first day of October, 1921, the sale of a motor vehicle in this state for which a certificate of title has been issued, when the holder of such certificate shall not comply with the provisions of section 3 of this act, makes such act of the owner a felony and punishable by a fine of not more than \$1,000 or by imprisonment for not more than ten years, or both, in the discretion of the court.

After January 1, 1922, dealers in used vehicles or parts thereof, must obtain a license from the Secretary of State, which license must be renewed annually on or before January 1. Blank forms are supplied by this office. The fee for this license is \$5.00. If issued after July 1 of any year the fee is \$3.00. In case of removal from one location to another, or the opening of an additional place of business, a supplemental license must be procured, for which no fee is required. A record of purchases, sales or exchanges, etc., of all second-hand vehicles or parts thereof shall be kept by each licensee, which record shall give the description of such vehicles or parts and give the name and address of the seller, purchaser, and alleged owner from whom the car was purchased. Dealers must also possess a duly assigned certificate of title from the owner of said motor vehicle.

The sheriffs of the several counties and chiefs of police of cities of more than 10,000 population are required to make immediate report of all stolen and recovered motor vehicles, blanks for which are supplied by this office.

FEES.

Original certificate of title, \$1.00.

Certificate of title to assignee, \$1.00.

Second-hand dealer's license, \$5.00. After July 1, \$3.00.

LAWS RELATING TO MOTOR VEHICLES.

Certificate of Title Act.

AN ACT to protect the title of motor vehicles and trailers within this State; to provide for the issuance of certificates of title and evidence of registration thereof; to regulate purchase and sale or other transfer of ownership; to facilitate the recovery of motor vehicles and trailers stolen or otherwise unlawfully taken; to provide for the regulation and licensing of certain dealers in used and second hand vehicles as herein defined; to prescribe the powers and duties of the Secretary of State hereunder; and to provide penalties for violation of the provisions hereof.

[Act 46, P. A. 1921.]

The People of the State of Michigan enact:

(1) SECTION 1. Definitions. The words and phrases used in this act shall be construed as follows, unless the context may otherwise require:

(a) The term "motor vehicle" shall include all vehicles impelled by power other than muscular power except motor cycles operated by policemen or firemen when on official business, also all motor vehicles, including trucks owned and operated by municipalities, or by the State, or by any State institution: Provided, That the same shall be designated by proper signs in which department of said municipality or State, or institution, said trucks or other motor vehicles are employed, traction engines, road rollers, fire wagons, fire engines, police patrol wagons and such vehicles as run only upon rails or tracks.

(b) The term "State" as used in this act, except where otherwise expressly provided, shall also include the territories and the Federal districts of the United States.

(c) The term "owner" shall also include any person, firm, association or corporation renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days.

Term "owner" construed. See opinion of Attorney General at the back of this pamphlet immediately preceding index.

(d) "Vehicle." Any motor vehicle, trailer, or semi-trailer as herein defined.

(e) "Used vehicle." A motor vehicle, trailer or semi-trailer which has been sold, bargained, exchanged, given away or title transferred from, the person who first took title to it from the manufacturer or importer, dealer or agent of the manufacturer or importer, and so used as to have become what is commonly known as "second-hand" within the ordinary meaning thereof.

(f) "Manufacturer." A person, firm, corporation or association engaged in the manufacture of new motor vehicles, trailers, or semi-trailers, as a regular business.

(g) "Dealer." Any person, firm, corporation or association engaged in the purchase and sale of motor

vehicles, trailers or semi-trailers, or in the leasing of the same for a period of thirty or more successive days.

(2) SEC. 2. Certificate of title for motor vehicles. After July one, nineteen hundred twenty-two, no certificate of the registration of any vehicle or number plates therefor, whether original issues, or duplicates, shall be issued or furnished by the Secretary of State unless the applicant therefor shall at the same time make application for and be granted an official certificate of title of such motor vehicle or shall present satisfactory evidence that such a certificate covering such motor vehicle has been previously issued to the applicant. Said application shall be upon a blank form to be furnished by the Secretary of State and shall contain a full description of the motor vehicle, which said description shall contain the manufacturer's number, the motor number, and any distinguishing marks, together with a statement of the applicant's title and of any liens or encumbrances upon said motor vehicle, and such other information as the Secretary of State may require. The Secretary of State, if satisfied that the applicant is the owner of such motor vehicle, or otherwise entitled to have the same registered in his name, shall thereupon issue to the applicant an appropriate certificate of title over his signature, authenticated by a seal to be procured and used for such purpose. Said certificates shall be numbered consecutively, beginning with number one, and shall contain such description and other evidence of identification of said motor vehicle as the Secretary of State may deem proper, together with a statement of any liens or encumbrances which the application may show to be thereon. The charge for each original certificate so issued shall be one dollar, which charge shall be in addition to the charge for the registration of such motor vehicle. Said certificate shall be good for the life of the car so long as the same is owned or held by the original holder of such certificate, and shall not have to be renewed annually, or at any other time except as herein provided. Upon the passage of this act it shall be the duty of the Secretary of State to cause to be printed copies of this act, and to mail to every person, to whom he has issued a certificate of registration for the year nineteen hundred twenty-one, one of such printed copies accompanied by a blank form of application for a certificate of title.

(3) SEC. 3. In the event of the sale or other transfer after October one, nineteen hundred twenty-one, of the ownership of a motor vehicle for which a certificate of title has been issued as aforesaid, the holder of such certificate shall endorse on the back of the same an assignment thereof with warranty of title in form printed thereon with a statement of all liens or encumbrances on said motor vehicle, and deliver the same to the purchaser or transferee at the time of the delivery to him of such motor vehicle. The purchaser or transferee shall within ten days thereafter, present such certificate, assigned as aforesaid, to the Secretary of State, accompanied by a fee of one dollar, whereupon a new certificate of title shall be issued to the assignee. Said certificate, when so assigned and returned to the Secretary of State, together with any subsequent assignments or reissues thereof, shall be retained by the Secretary of State and appropriately

filed and indexed, so that at all times it will be possible to trace title to the motor vehicle designated therein.

(4) SEC. 4. Any person who shall operate a motor vehicle in this State under a registration number of this State after July one, nineteen hundred twenty-two, without securing a certificate of title, as herein provided, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars, nor more than one thousand dollars, and from and after the first day of October, nineteen hundred twenty-one, any person who sells a motor vehicle without complying with the requirements of section three hereof shall be guilty of a felony and upon conviction thereof shall be punished by a fine of not more than one thousand dollars, or by imprisonment in any penal institution within the State not more than ten years, or both such fine and imprisonment in the discretion of the court.

(5) SEC. 5. Certificates of registration for motor vehicles. The Secretary of State shall furnish with each number plate for motor cycles and with each pair of number plates for motor vehicles, a receipt of registration, which shall contain upon the face thereof the following data: The name of the registered owner of the motor cycle or motor vehicle, the owner's post-office address, the make of the vehicle, the year of model, the model or letter designated by the manufacturer, manufacturer's serial number, if any, the engine number, the registered horse power, the registration or license number and date of issue of the receipt of registration. In case of motor cycles, the manufacturer's serial number shall be stated in lieu of the engine number. Such receipt of registration shall contain a blank space for the signature of the registered owner and shall be signed with ink by such owner immediately upon receipt. Such receipt of registration shall contain the registration number denoted on the number plate or plates, in connection with which such receipt of registration is issued. Said receipt of registration shall also contain the engine number of the motor vehicle for which said receipt of registration is issued as denoted by certificate of title issued for said motor vehicle by the Secretary of State. The receipt of registration referred to herein shall be subject to inspection by any peace officer at any time. Said receipt of registration shall, at all times while the motor vehicle for which it was issued is being operated within this State, be in the possession of the operator thereof.

(6) SEC. 6. Upon the transfer of ownership of any motor vehicle or motor cycle, registered under this act, the person in whose name such a motor vehicle or motor cycle is registered shall forthwith forward the receipt of registration to the Secretary of State with endorsement on the back thereof showing the name and post-office address of the transferee, and the date of transfer. For failure to comply with this provision within ten days after the date of transfer, the transferor, upon conviction, shall be fined not less than five dollars or more than fifty dollars.

(7) SEC. 7. Thereupon it shall be the duty of the Secretary of State to file such receipt of registration in a file to be known as "The Transfer of Ownership File." Unless the transferee as shown by the endorsement on

the back of the receipt of registration, applies by mail, or otherwise, within ten days after the date of transfer of the motor vehicle for certificates of registration and title, the Secretary of State shall notify said transferee at once to do so. Unless said transferee then makes application within five days after the receipt of such notice from the Secretary of State for such certificates, he shall be considered to be driving a motor vehicle without registration, and upon conviction thereof shall be fined not less than five dollars or more than fifty dollars.

(8) SEC. 8. If the Secretary of State shall determine at any time that an applicant for a certificate of title of a motor vehicle is not entitled thereto, he may refuse to issue such certificate or to register such vehicle, and may for a like reason and after notice and hearing revoke registration already acquired, on any outstanding certificate of title.

(9) SEC. 9. Any person who shall knowingly make any false statement of a material fact, either in his application for the certificate of title herein provided for, or in any assignment thereof, or who, with intent to procure or pass title to a motor vehicle which he knows or has reason to believe has been stolen, shall receive or transfer possession of the same from or to another, or who shall have in his possession any motor vehicle which he knows or has reason to believe has been stolen, and who is not an officer of the law engaged at the time in the performance of his duty as such officer, shall be deemed guilty of a felony and upon conviction shall be punished by a fine of not more than five thousand dollars or by imprisonment in any penal institution within this State for not more than ten years, or both, at the discretion of the court. This provision shall not be exclusive of any other penalties prescribed by any existing or future law for the larceny or unauthorized taking of a motor vehicle.

(10) SEC. 10. In the case of dealers in motor vehicles, motor cycles, side cars or trailers, including manufacturers who sell to others than dealers, all of whom are intended to be covered by this and all other provisions of this section, a separate certificate of title, either of such dealer's immediate vendor, or of the dealer himself, shall be required in the case of each motor vehicle in his possession, and the Secretary of State shall determine the form in which application for such certificates of title and assignments thereof shall be made: Provided, however, That no such certificate shall be required in the case of new motor vehicles sold by manufacturers to dealers as the term "Dealers" is defined in section one of this act.

(11) SEC. 11. In the case of lost certificates of title or registration, the loss of which is accounted for to the satisfaction of the Secretary of State, duplicates may be issued, the charge therefor to be one dollar each.

(12) SEC. 12. Any person who shall alter or forge or cause to be altered or forged, any certificate of title issued by the Secretary of State pursuant to the provisions of this section, or any assignment thereof, or who shall hold or use any such certificate or assignment knowing the same to have been altered or forged, shall be deemed guilty of a felony, and upon conviction thereof shall be liable to pay a fine of not more than five thousand dollars

or to imprisonment in any penal institution within the State for a period of not more than ten years, or both, in the discretion of the court.

(13) SEC. 13. Report of stolen and recovered motor vehicles. It shall be the duty of the sheriff of every county of the State and of the chief of police or commissioner of police of every city having a population of more than ten thousand to make immediate report to the Secretary of State of all motor vehicles reported to him as stolen or recovered, upon forms provided for by the Secretary of State. Upon receipt of such information, the Secretary of State shall file the same in an index to be known as the "Stolen and Recovered Motor Vehicle Index." It shall also be the duty of the Secretary of State to file reports of stolen and recovered motor vehicles reported to him from other states. The Secretary of State shall publish once a month a list of all motor vehicles stolen or recovered during the previous month and forward a copy of the same to every sheriff, the commanding officer of the Michigan State Police, and all police departments in cities over ten thousand inhabitants. Such list shall also be forwarded to the Secretary of State, or other proper official, in each State of the United States. Before issuing a certificate of title, as heretofore provided, the Secretary of State shall check the motor and serial number on the motor vehicle to be registered against the "Stolen and Recovered Motor Vehicle Index."

(14) SEC. 14. Licensing of second-hand dealers. That after the first day of January, nineteen hundred twenty-two, it shall be unlawful for any person to carry on or conduct in this State the business of buying, selling or dealing in used vehicles or parts thereof, unless and until he shall have received a license from the Secretary of State authorizing the carrying on or conducting of such business: Provided, however, That any manufacturer or importer of vehicles or his subsidiaries or selling agents, may buy or take in trade and sell any used vehicles of his own make without such license. Such license shall be furnished annually by the Secretary of State and shall run from the first day of January, nineteen hundred twenty-two, and annually thereafter for each year, beginning on the first day of January. The application for said license shall be in such form as may be prescribed by the said Secretary of State and subject to such rules and regulations with respect thereto as may be so prescribed by him. Such application shall be verified by oath or affirmation and shall contain a full statement of the name or names of the person or persons applying therefor, the name of the firm or co-partnership with the names and places of residence of all the members thereof, if such applicant be a firm or co-partnership, the name and residence of the principal officers, if the applicant be a body corporate or other artificial body, the name of the State under whose laws the corporation is organized, the location of the place or places at which such business is to be carried on and conducted, and said application shall contain such other relevant information as may be required by the Secretary of State. It shall be accompanied by a statement of two reputable persons of the community in which the principal place of business is to be located, certifying to the good moral character of the person or

persons applying for such license. Upon making such application the person applying therefor shall pay to the Secretary of State a fee of five dollars. A license certificate shall be issued by the Secretary of State in accordance with such application when the same shall be regular in form and in compliance with the provisions of this section, and such license, when so issued, shall entitle the licensee to carry on and conduct the business of buying and selling and dealing in used vehicles and parts thereof, for a period of one year from the first day of January of the current year. The Secretary of State shall have the power to make suitable rules and regulations for the issuance of such licenses to expire upon the first day of January of the succeeding year, when the application therefor shall be made during the current year, and upon payment of a license fee of three dollars provided application is made after July first of any year. Any person conducting the business of buying, selling or dealing in used vehicles and having received a license therefor, shall, before removing any one or more of his places of business, or shall, before opening any additional places of business, apply to the Secretary of State for, and obtain, a supplemental license, for which no fee shall be charged. Every such licensee shall keep a book or record in such form as may be prescribed or approved by the Secretary of State, in which he shall keep a record of the purchase, sale or exchange or receipt for the purpose of sale, of any second-hand vehicle or parts thereof, a description of such vehicles or parts, together with the name and address of the seller, of the purchaser, and of the alleged owner or other person from whom such vehicle or parts were purchased or received, or to whom they were sold or delivered, as the case may be. Such description in the case of motor vehicles shall also include the engine number, if any, the maker's number, if any, chassis number, if any, and such other numbers or identification marks as may be thereon, and shall also include a statement that a number has been obliterated, defaced or changed, if such is the fact. In the case of a trailer or semi-trailer, the record shall include the manufacturer's number and such other numbers or identification marks as may be thereon. He shall also have in his possession a duly assigned certificate of title from the owner of said motor vehicle in accordance with the provisions of another section of this act, from the time when the motor vehicle is delivered to him until it has been disposed of by him. Any person guilty of violating any of the provisions of this section shall be deemed guilty of a felony and punished by a fine of not more than one thousand dollars or by imprisonment in any penal institution within this State for not more than three years, or both at the discretion of the court.

(15) SEC. 15. The Secretary of State is hereby given power (with the consent of the Governor) to appoint and pay from the fund hereinafter designated as the "Auto-Theft Fund" all necessary deputies in addition to the present officers of the law to carry out the provisions of this act, and he, together with such deputies and existing officers of the law, are hereby given police power and authority throughout the State, to arrest without writ, rule, order or process, any person in the act of violat-

ing or attempting to violate in his presence, any of the provisions of this act, and they are hereby made peace officers of this State for that purpose. With the permission and consent of the sheriff of any county or the chief of police of any city, the Secretary of State is hereby authorized to employ temporarily and deputize any deputy sheriff or police officer to investigate any auto theft matters or other violations of this act and any such officers so employed or deputized, shall have all the authority of peace officers as heretofore provided. Any officer or deputy of the Secretary of State shall have the authority and is hereby required to use reasonable diligence in ascertaining whether the owners and operators of motor vehicles are complying with the provisions of this act.

(16) SEC. 16. All moneys received by the Secretary of State under the provisions of this act shall be set aside and shall be known as the "Auto-Theft Fund" and shall be held and retained in the State Treasury as a separate fund and shall be used first to meet the necessary additional expenses of the office of the Secretary of State incurred by the performance of duties. If at the end of any fiscal year there is a balance in said fund, said balance shall revert to the general fund in the State Treasury. All expenses which may be incurred by the Secretary of State in printing this act and in the preparation and printing of the prescribed forms, together with the cost of postage and mailing and the necessary clerical assistance, shall be paid in the first instance out of the fund accruing from motor vehicle license fees and as soon as sufficient funds are available from the fees and collections provided for in this act, the license fund shall be reimbursed for the amount so paid.

(17) SEC. 17. Any person who shall make any false affidavit, or shall knowingly swear or affirm falsely, to any matter or thing required by the terms of this act to be sworn or affirmed to, shall be guilty of perjury, and upon conviction, shall be punishable by fine and imprisonment as other persons committing perjury are punishable.

(18) SEC. 18. If any provision of this act shall be held by any court to be unconstitutional, such judgment shall not affect any other section or provision of this act.

(19) SEC. 19. This act shall take effect on the first day of July, nineteen hundred twenty-one.

MICHIGAN MOTOR VEHICLE LAW.

AN ACT to provide for the registration, identification and regulation of motor vehicles and trailers attached thereto operated upon the public highways of this State, and of the operators of such vehicles, and to provide for levying specific taxes upon such vehicles so operated, and to provide for the disposition of such funds and to exempt from all other taxation such motor vehicles so specifically taxed, registered, identified and regulated, and to repeal all other acts or parts of acts inconsistent herewith or contrary hereto. (a)

[Act 302, P. A. 1915.]

The People of the State of Michigan enact:

(20) §4797. SECTION 1. Definitions. The term "motor vehicle" as used in this act, except where otherwise expressly provided, shall include all vehicles impelled by all power other than muscular power except motor cycles operated by policemen or firemen on official business, also all motor vehicles including trucks owned and operated by municipalities, or by the State, or by any State institution: Provided, That the same shall be designated by proper signs in which department of said municipality or State, or institution, said trucks or other motor vehicles are employed, traction engines, road rollers, fire wagons, fire engines, police patrol wagons, and such vehicles as run only upon rails or tracks. The term "chauffeur" shall mean any person operating a motor vehicle for hire, or as the employe of the owner thereof. The term "State" as used in this act, except where otherwise expressly provided shall also include the territories and the federal districts of the United States. The term "owner" shall also include any person, firm, association or corporation renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days. The term "public highway" shall include any highway, county road, State road, public street, avenue, alley, park, parkway or public place in any county, city, town or village, except any speedway which may have been or may be expressly set apart by law for the exclusive use of horses and light carriages.

Am. 1919, Act 383.

TAXATION: The tax imposed on motor vehicles by Act 302, P. A. 1915, is imposed not on the property, but on the privilege of operating automobiles on the highways of the State, and partakes of the nature of a fee for privilege or license rather than a property tax; and the statute is sufficiently entitled to sustain the validity thereof, as against the objection that the title included two objects.—*Jasnowski v. Bd. of Assessors*, 191/287.

(21) §4798. SEC. 2. Application for registration. Every owner of a motor vehicle which shall be driven or operated upon the public highways of this State, shall for each motor vehicle owned, except as herein otherwise expressly provided, cause to be filed by mail or otherwise in the office of the Secretary of State an application for

(a) Title am. 1919, Act 383.

that purpose, and shall also pay the tax as herein provided. Said application shall be accompanied by an affidavit that the facts therein set forth are true and shall contain (a) a brief description of the motor vehicle to be registered including the name of the manufacturer, the style, type and factory and motor number, if any, of such vehicle, the registration number last preceding, if the vehicle was ever before registered; (b) number and diameter of cylinders if a gasoline power vehicle, together with the rated horsepower computed as herein provided; the number, diameter and stroke of cylinders, if a steam power vehicle, together with the manufacturer's rating of horsepower; the type and rating of the motor, if an electric power vehicle, together with the manufacturer's rating of horsepower; (c) the name and address of the owner of such vehicle and the name of the county in which he resides. Upon all applications for commercial cars and for motor vehicles known as sight-seeing cars the application shall show, in addition to the general description as above, the scale weight of the car fully equipped at the time when the application is made. The making of any false statement of a material fact in said application shall render the person making the same liable for the penalty provided by law for the crime of perjury: Provided, The provisions of this act shall be operative from and after the first day of November, nineteen hundred nineteen.

Am. Id.

CONSTRUED: It was not the intent of the legislature that any other than the real owner of an automobile should have the same registered as required by law, excepting any person, firm, etc., renting a motor vehicle, or having exclusive use thereof under a lease or otherwise for a period greater than thirty days.—Daugherty v. Thomas, 174/375.

(22) §4799. SEC. 3. Registration book. Upon the receipt of an application for registration of a motor vehicle or vehicles as provided in this section and in section four of this act, the Secretary of State shall file such application in his office and register such motor vehicle or vehicles with the name, residence and business address of the owner, manufacturer or dealer, as the case may be, together with the facts stated in such application, in a book or index to be kept for the purpose, under the distinctive number assigned to such motor vehicle by the Secretary of State, and in addition thereto it shall be the duty of the Secretary of State to keep a separate record showing the engine numbers of all motor vehicles registered hereunder in numerical order, with the license number assigned to such vehicle appearing opposite, which records shall be appropriately indexed according to the trade name under which such motor vehicle is sold. The records herein provided for shall be open to inspection during reasonable business hours.

Am. Id.

(23) §4800. SEC. 4. Number plate. Upon the filing of such application and the payment of all taxes provided in section seven, the Secretary of State shall assign to such motor vehicle a distinctive number, and without expense to such applicant issue and deliver to the owner a number plate in duplicate, unless otherwise provided in such form and size as is provided for such class of vehicle. The title to all such number plates shall be deemed to be

and remain in the State of Michigan. In event of the loss, mutilation or destruction of a number plate the owner of such motor vehicle may obtain from the Secretary of State a duplicate thereof upon filing in the office of the Secretary of State an affidavit showing the fact and the payment of the fee of one dollar for each duplicate. A duplicate of any plate issued to a manufacturer or dealer and lost, mutilated or destroyed may be issued in like manner on the payment of a fee of five dollars for each such duplicate. Any person wilfully destroying, mutilating, counterfeiting or making or causing to be made any imitation of such number plate, or of any chauffeur's badge issued under this act, and any person using any forgery or counterfeited plate, or any imitation thereof, or any person using a number plate issued for any year other than the current year, or altering or changing the numbers or the figures or letters on any such plate, shall be deemed to be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred dollars, or by imprisonment in the county jail for not more than six months, or both such fine and imprisonment in the discretion of the court.

Am. Id.

(24) §4801. SEC. 5. Furnishing registration lists to county clerks and police departments. The Secretary of State shall within sixty days after this act takes effect, and thereafter on or before the first day of February of each year, furnish to the clerk of every county in the State, and the police departments of every city within the State having an estimated population of ten thousand or more, a full and accurate list of all motor vehicles so registered, stating the distinctive numbers so assigned to them and the names, residences and business addresses of the owners, manufacturers or dealers as the case may be, and once each month thereafter a similar list of the additional registrations, which additional list shall be entered by each county clerk or police department upon the original list received by him. Such lists shall be filed by such county clerks and police department and be kept as public records, open to inspection during reasonable business hours. The Secretary of State is hereby authorized to sell any surplus lists on hand and may fix a reasonable compensation therefor.

Am. Id.

(25) §4802. SEC. 6. Registration annually. All registrations under this act shall expire on December thirty-first of each year and shall be renewed annually in the same manner and upon the payment of the same tax as provided in section seven for original registration, such renewal to take effect on the first day of January of each year.

(26) §4803. SEC. 7. Taxes to be paid prior to registration. The Secretary of State shall collect the following taxes: Before registering a motor vehicle or vehicles in accordance with the provisions of this act, which taxes shall be all the lawful tax collectible on such motor vehicle and shall exempt such motor vehicle from all other forms of taxation. The taxes shall be collected in accordance with the following schedule:

(a) Before the registration of a motor cycle, twenty-

five cents per horse power, plus thirty-five cents for each hundred pounds of its weight;

(b) Before the registration of an automobile:

I. If an automobile operated by gasoline power, twenty-five cents for each horse power, plus thirty-five cents for each one hundred pounds of its weight.

II. If an automobile operated by steam power, twenty-five cents for each horse power, plus thirty-five cents for each one hundred pounds of its weight.

III. If an automobile operated by electric power, one dollar for each horse power of its motor, plus thirty-five cents for each one hundred pounds of its weight;

(c) Before the registration of a motor truck:

For the purposes of this act any motor vehicle operating on more than two wheels and having when built by the manufacturer, only one seat and no provision for other seats, and which shall be built and operated for the purpose of transporting articles other than persons, shall be considered as a motor truck.

I. If a motor truck operated by gasoline power, twenty-five cents for each horse power, plus thirty-five cents for each one hundred pounds of its weight.

II. If a motor truck operated by steam power, twenty-five cents for each horse power, plus thirty-five cents for each one hundred pounds of its weight.

III. If a motor truck operated by electric power one dollar for each horse power of its motor, plus thirty-five cents for each one hundred pounds of its weight.

IV. If a trailer, fifty cents per each one hundred pounds of its weight.

The Secretary of State shall furnish for each such trailer one suitable number plate, which shall be placed on the rear thereof in such manner as to be easily seen, and which shall be at least sixteen inches above the ground. Such plate shall be in such size, make and color as the Secretary of State may prescribe and shall be properly marked with figures and numerals to permit of the identification thereof.

Am. 1919, Act 383.

(27) §4804. SEC. 8. Before the registration of motor vehicles owned by or under the control of a manufacturer or dealer in motor vehicles and who has complied with the provisions hereinafter set forth if such person operates on the public highways not more than three such vehicles thirty dollars and ten dollars for every motor vehicle in excess of three so operated. Before the registration of all motor cycles owned by or under the control of a manufacturer of motor cycles who does not manufacture or deal in automobiles, including five number plates to be furnished with the certificate of registration ten dollars.

Am. Id.

(28) §4805. SEC. 9. For all motor vehicles registered after September first in any calendar year including said vehicles registered by manufacturers and dealers a tax of one-half the rate herein provided shall be collected: And provided further, That nothing in this act shall be construed to exempt manufacturers or dealers from paying taxes as personal property on motor vehicles in stock or bond except on the specified number of machines that have been registered to operate on the highways.

Am. Id.

(29) §4806. SEC. 10. For the purposes of this act the horse power of all motor vehicles shall be determined as follows:

(a) For motor vehicles operated with a gasoline engine, the horse power shall be computed by squaring the diameter of one cylinder, multiplying by the number of cylinders, and dividing the product by two and one-half, provided fractions shall not be considered in the final computations.

(b) For motor vehicles operated with a steam engine, the horse power as given by the manufacturer as the rated horse power shall be taken, provided fractions shall not be considered in the final computations.

(c) For motor vehicles operated with an electric motor, the horse power rating shall be the same as the rating horse power fixed by the manufacturer, provided fractions shall not be considered in the final computations.

(d) The weight of any motor vehicle shall be taken as the weight fully equipped at which the manufacturer represents the car, or the weight named in the shipping bill: Provided, That if this be not known, the actual weight as determined on a standard scale shall govern.

(30) §4807. SEC. 11. Sale and transfer. Upon the sale of a motor vehicle registered in accordance with this act the purchaser shall within ten days after the date of such sale notify the Secretary of State, stating the name and address of the purchaser and the number under which such motor vehicle is registered. Thereupon it shall be the duty of the Secretary of State to immediately record the fact of such transfer in an appropriate book or books to be kept by him for such purpose, and a suitable index of such change shall be made. A fee of one dollar shall accompany such application for transfer, and upon receipt of same the Secretary of State shall issue a certificate to the purchaser setting forth the fact of transfer and the registered number of the motor vehicle. Said secretary shall also furnish to the county clerks of the various counties of the State at least once each month a list of all such transfers. Any motor vehicle that is sold and for which the registration is not transferred as hereby contemplated within ten days after the date of sale, shall be deemed to be without registration and any person operating the same on the public highways shall be liable to the penalties in this act provided for operating a non-registered vehicle.

Am. 1919, Act 383.

(31) §4808. SEC. 12. Distinctive number on motor vehicles. No person shall operate or drive a motor vehicle on the public highways of this State, unless such vehicle shall have the number plates assigned to it by the Secretary of State conspicuously displayed, one on the front and one on the rear of such vehicle, and at least sixteen inches above the ground, each securely fastened in a horizontal position so as to prevent the same from swinging: Provided, That owners of motor bicycles or motor cycles shall be required to display but one number plate and that upon the rear of such machine: Provided further, That it shall be unlawful to display more than one registration number upon any such motor vehicle or a number which does not entitle the owner thereof to operate such motor vehicle upon the public highways of the State.

Change of color of number plate annually. Such number plates shall be of a distinctly different color or shade for each year, to be designated and selected by the Secretary of State, and there shall be at all times a marked contrast between the color of the number plates and that of the numerals or letters thereon.

Form of number plate. Such number plate shall be on an enameled plate or placard of metal having such dimensions as may be prescribed by the Secretary of State. In the left hand of each such plate there shall be the abbreviation "Mich.," and numerals indicating year, and to the right of which abbreviation there shall be the distinctive number assigned to the vehicle set forth in numerals of such size and character as the Secretary of State may prescribe: Provided, That said Secretary may prescribe different forms, sizes and colors of number plates for different classes of motor vehicles subject to the provisions hereof.

Am. Id.

ABSENCE OF LICENSE: As to whether an automobile owner who has failed to comply with the law requiring the equipping of cars with license plates can recover for injuries to his care, quaere.—*Stuch v. Town*, 178/479.

(32) §4809. SEC. 13. Registration by manufacturers and dealers. Every person, firm, association or corporation manufacturing or dealing in motor vehicles may, instead of registering each motor vehicle so manufactured or dealt in, make an application upon a blank to be furnished by the Secretary of State for a general distinctive number or numbers for all the motor vehicles owned or controlled by such manufacturer or dealer. Such application shall be accompanied by an affidavit setting forth the truth of the facts therein alleged and shall contain:

(a) A statement setting forth whether the applicant be a dealer or manufacturer;

(b) The name, residence and business address of such manufacturer or dealer.

On the payment of the tax named in section eight of this act, such application shall be filed and registered in the office of the Secretary of State in the manner provided in section three of this act. There shall thereupon be assigned and issued to such manufacturer or dealer a general distinctive number or numbers and duplicate number plates in the manner provided by section four which shall be in the form of plates as provided in section twelve, duplicates of which shall be carried or displayed by every motor vehicle of such manufacturer or dealer so registered when the same is driven or operated on the public highways. Such manufacturer or dealer may obtain as many duplicate sets of such number plates as may be desired upon payment to the Secretary of State of ten dollars for each duplicate set in excess of the first three issued with the license. Nothing in this section shall be construed to apply to a motor vehicle operated by a manufacturer or dealer for private use or for hire, and the operation on the public highways of this State for private use or for hire of any motor vehicle under a manufacturer's or dealer's license and with the number plates assigned to any manufacturer or dealer displayed thereon, shall be deemed to constitute a violation of the provisions of this act. For all vehicles registered after September first in any registration year a tax of one-half

the rate provided in this section shall be paid. No provision in this section shall be construed to apply to a motor vehicle operated by a manufacturer or his authorized representative between the factory where such motor vehicle is manufactured and any railroad depot, railroad siding, warehouse, steamship dock, or other place where such motor vehicle is to be delivered for shipment, or to the warehouse or salesroom of such manufacturer: Provided, That the person so operating a motor vehicle under the provisions of this section shall be a registered chauffeur under the terms hereof and shall be furnished by the manufacturer or his authorized agent with an order for the delivery of such motor vehicle to its destination, which order shall bear the date upon which it is issued and shall contain the number of the motor vehicle so operated and the point to which it is to be delivered: Provided further, That any such motor vehicle sold by a manufacturer or dealer may be driven by a registered chauffeur under its own motor power on any of the public highways of the State from the factory or place of business to the place of residence of the purchaser. In any such case, however, a temporary number plate in such form as may be prescribed by the Secretary of State for the use of such manufacturer or dealer shall be displayed upon the vehicle, and said manufacturer or dealer shall deliver to the person driving the motor vehicle a certificate setting forth the date of purchase. In no case shall any such temporary number plate be used or displayed later than five days after the time of such sale and purchase aforesaid. Any such additional or further use, or the use of such temporary plate except as herein provided shall be deemed to constitute a violation of the provisions of this act. It shall be the duty of every dealer and the owner or operator of every public garage in this State to keep a full and complete record in ink of all sales and purchases made and cars taken in exchange by him, specifying the date of sale, the name and residence of the purchaser and vendor and the make, serial and motor number and description of the vehicle sold. On the first day of each month a duplicate copy of such record shall be furnished the Secretary of State. Said secretary may prescribe the form in which such reports are made. All manufacturers and dealers shall keep a record of the cars upon which manufacturers' and dealers' number plates are used, together with the name of the driver in charge of such car. All entries shall be made in ink and shall be open to inspection by any police officer. Any false entry in any record required to be kept in this section shall render the person making such entry, or causing the same to be made, guilty of a misdemeanor and subject to the penalty herein provided in section twenty-eight.

Am. Id.

(33) §4810. SEC. 14. Re-registration annually. All registrations under this act shall expire on December thirty-first of each year, and shall be renewed annually in the same manner and upon the payment of the same taxes provided for in section seven for original registration, such renewal to take effect on the first day of January of each year.

(34) §4811. SEC. 15. Exemption of non-resident owners. The provisions of the foregoing sections shall

not apply to a motor vehicle owned by a non-resident of this State: Provided, That the owner thereof shall have complied with the provisions of the law of the State or province of his residence relative to motor vehicles and the operation thereof, and shall conspicuously display his state or province number, and that the provisions of the foregoing sections of this act are substantially in force in such state or province: Provided further, That this exemption shall not apply to non-resident corporations doing business in this State: Provided further, That non-residents shall not be exempt from the foregoing sections, unless the state or province of his residence extends similar privileges to motor vehicles registered under this law, nor in any case for a continuous residence in this State for more than ninety days.

Am. 1919, Act 383.

(35) §4812. SEC. 16. Brakes, horns, lamps, et cetera. Every motor vehicle operated and driven upon the public highways of this State shall be provided with adequate brakes sufficient to control the vehicle at all times, and a suitable and adequate bell, horn or other device for signaling, and shall during the period from one hour after sunset to one hour before sunrise, be equipped with and display a lamp or lamps as hereinafter provided, of sufficient power and so adjusted and operated as to enable the operator of such vehicle to proceed with safety to himself and to other users of the highways under all ordinary conditions of highway and weather.

(a) "Front Lamps." Every motor vehicle shall have a lamp mounted on each side of the front thereof, said lamps to be of approximately equal candle power, and every motorcycle shall have mounted on the front thereof one lamp. If said vehicles are so mechanically constructed, governed or controlled that they cannot exceed a speed of fifteen miles per hour, they shall have front lamps capable of furnishing light of sufficient candle-power to render any substantial object clearly discernible on a level highway at least fifty feet directly ahead and at the same time at least seven feet to the right of the axis of such vehicle for a distance of at least twenty-five feet. If said vehicles can exceed a speed of fifteen miles per hour then they shall have front lamps capable of furnishing light of sufficient candle-power to render any substantial object clearly discernible on a level highway at least two hundred feet directly ahead and at the same time at least seven feet to the right of the axis of such vehicle for a distance of at least one hundred feet. Every automobile shall, during the period from one hour after sunset to one hour before sunrise, keep such front lamps lighted continuously while the vehicle bearing them is in motion, except when the driver thereof may temporarily extinguish them for the convenience of the driver of some approaching vehicle; but in such case the driver shall not extinguish them completely unless his machine also is provided with two identical lamps of lesser brightness symmetrically placed on each side, both of which shall, during the period from one hour after sunset to one hour before sunrise, be lighted continuously while the vehicle bearing them is in motion whenever such front lamps are not lighted.

(b) "Side Lamps." Every trailer and semi-trailer,

except small two-wheel trailers of one thousand pounds capacity or less towed closely behind a motor vehicle and semi-trailer when towed alone, whose overall length, in both cases, including towing vehicle and load, does not exceed thirty feet when on the highways of this State at night shall carry at the front of its left side one lamp capable of throwing a white light visible from both sides of such vehicle.

(c) "Rear Lamps." Every motor vehicle, tractor, trailer, or semi-trailer when on the highways of this State at night shall have on the rear thereof one lamp capable of displaying a light which shall, except in the case of tractors, be red, and on tractors, one white light displayed on extreme left of vehicle shall be sufficient, visible for a distance of at least one hundred feet behind such vehicle. Every motor vehicle, tractor, trailer and semi-trailer when on the highways of this State at night shall carry a lamp illuminating with white light the registration plate of such vehicle so that the characters thereon shall be visible for a distance of at least fifty feet.

If any spot-light shall be carried and displayed on any such motor vehicle the same shall be so placed and used that the light therefrom shall be focused on the right hand side of the road not more than two hundred feet in front of such vehicle: Provided, That motor bicycles or motor-cycles shall be required to display but one lighted lamp, such lamp to be placed on the front of the vehicle so that it shall be visible one hundred feet in the direction in which the motor vehicle is proceeding: Provided further, That all cars parked within the city limits of any public highway or permitted to stand thereon at any time during the period from one hour after sunset to one hour before sunrise shall have displayed thereon a front and a rear light: And provided further, That every motor truck, omnibus and all motor commercial vehicles of one and one-half tons capacity or more, operating upon the public highways of this State, shall be equipped with a mirror or other reflecting device so adjusted or adjustable that the operator of such truck shall have a clear and full view of the road and condition of traffic behind such truck: Provided, however, That the provision of this act relative to mirrors, or other reflecting devices shall not apply to cities.

Am. 1919, Act 383; 1921 (2nd Ex. Sess.), Act 3.

This section was amended by Act 30, P. A. 1921, approved April 5, 1921; Act 368, approved May 18, 1921; Act 22, (1st Ex. Sess.) approved June 15, 1921, and Act 3 of the 2nd extra session, the latter Act being given immediate effect and superseding all previous amendments.

See sections 81-82. The driver of an automobile who approached a pedestrian in the street on a dark and rainy night owed a duty of giving reasonable warning of his approach, and this duty was not discharged by the presence of lights on his machine, since law requires an automobile to have "a suitable and adequate bell, horn or other device," for the purpose of "signaling."—*Johnston v. Cornelius*, 200/209.

(36) §4813. SEC. 17. Use of non-skidding devices. No person shall operate or drive on the public highways of this State a motor vehicle on any of the wheels is a tire chain or non-skidding contrivance or tire composed in whole or part of metal, except when such highways are wet and slippery or covered with ice or snow.

(37) §4814. SEC. 18. A person operating a motor

vehicle shall, at the request or on signal by putting up the hand from the person riding, leading or driving a horse or horses, or other draft animals, bring such motor vehicle immediately to a stop, and if traveling in an opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass, and if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal: Provided, That in case such horse or animal appear badly frightened, or the person operating such motor vehicle be requested so to do, such person shall cause the motor of such vehicle to cease running so long as may be reasonably necessary to prevent accident and insure the safety of others. Whenever a person operating a motor vehicle shall meet on a highway any other person riding or driving a horse or horses or other draft animals or any other vehicle, and there being no occasion to stop as above provided, the person operating such motor vehicle shall seasonably turn the same to the right of the center of the traveled portion of the highway while the person approaching shall likewise turn from the center of the traveled portion of the highway so as to pass the motor vehicle on the opposite side of the center of the highway to which the motor vehicle has been turned. And any person so operating any motor vehicle shall, at the intersection of a public highway, keep to the right of the intersection of the center of such highway when turning to the right, and pass to the right of such intersection when turning to the left. When vehicles approach an intersection of two or more public highways the vehicle approaching from the right of the driver shall have the right of way: Provided, however, That in cities where there is a traffic officer stationed at any intersection of highways or where traffic on specified thoroughfares is granted preference by local ordinance or regulation, such local ordinance or regulation shall take precedence over the rule last above stated.

Am. 1919, Act 9.

Duty of person operating a motor vehicle to keep to the right of a highway intersection when turning either to the right or left, see *Holden v. Hadley*, 180/570.

One who violates the "law of the road" by driving on the wrong side assumes the risk of such experiment and is required to use greater care than if he had kept on the right side, and if a collision takes place the presumption is against him.—*Black v. Parke, Davis & Co.*, 211/275.

(38) §4815. SEC. 19. If a vehicle drawn by a horse or horses or other draft animals, or a motor vehicle, be overtaken by any motor vehicle, and the person in charge of such motor vehicle expresses a desire to pass, it shall be the duty of the driver of any such vehicle or motor vehicle so overtaken as aforesaid, to turn to the right of the center of the wrought or traveled portion of the highway, and give the person so making the request, an opportunity to pass, but in passing, the person in charge of such motor vehicle and the other male occupants thereof over the age of fifteen years shall give such assistance as they are able, to the occupant or occupants of the vehicle they are passing, if assistance is asked, and in thus passing the chauffeur shall use all due care to avoid accidents.

(39) §4816. SEC. 20. Accidents. In case of accidents to person or property upon any public highway, due to the operation thereon of any motor vehicle, the person operating such motor vehicle shall stop and give such reasonable assistance as can be given, and shall, upon request of the person injured or any other person, give such person his name and address, and if not the owner, the name and address of the owner of such motor vehicle, together with the registered number thereof.

Where defendant neglected to signal a wagon ahead of him of his desire to pass, in compliance with this section, when the wagon would turn to the right and allow him to pass on the left, there being ample room for two vehicles to pass on the right side of the street, the court below was not in error in refusing to charge that it was defendant's duty to pass to the left of the wagon.—*Wilson v. Johnson*, 195/94.

(40) §4817. SEC. 21. Rate of speed. No person shall operate a motor vehicle upon a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person or the safety of any property; and shall not in any event while upon any highway run at a higher rate of speed than thirty-five miles an hour, and within the corporate limits of all cities and villages, corporate or incorporate, the rate of speed shall not be greater than fifteen miles an hour in the business portion of any such city or village and not greater than twenty miles an hour in all other portions thereof, subject, however, to the other provisions of this act. Upon approaching an intersecting highway, a bridge, dam, sharp curve or steep descent, and also in traversing such intersecting highways, bridge, dam, curve or descent, a person operating a motor vehicle shall have it under control and operate it at such speed as is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

Am. 1921, Act 368.

BUSINESS PORTION OF CITY: The term "business portion of cities and villages" applies not only to the central business area of a city but to all business districts in a city.—*People v. Dow*, 155/115.

RATE OF SPEED: In a prosecution for manslaughter the speed of the automobile should have been submitted to the jury as bearing upon the question of whether the driver was guilty of gross negligence. Gross negligence means wantonness and disregard of the consequences which may ensue.—*People v. Barnes*, 182/193.

That defendant's automobile was not exceeding the speed limit of fifteen miles per hour in non-business sections of the city does not conclusively establish freedom from negligence.—*Winckowski v. Dodge*, 183/309.

(41) §4818. SEC. 22. Upon approaching a person walking in the roadway of a public highway, or a horse or or horses, or other draft animals being ridden, led or driven thereon, a person operating a motor vehicle shall slow down to a speed not exceeding ten miles an hour and give reasonable warning of its approach and use every reasonable precaution to insure the safety of such person or animal, and in case of a horse or horses or other draft animals, to prevent frightening the same.

SLOW DOWN: Upon approaching a person walking in the roadway of a highway it is the duty of the person operating a motor vehicle to slow down to a speed not exceeding ten miles per hour, give reasonable warning of approach, and use every reasonable precaution to insure the safety of the pedestrian.—*Levyn v. Koppin*, 183/236.

(42) §4819. SEC. 23. Local authorities. Local authorities may, notwithstanding the provisions of this act, make, enforce and maintain such reasonable ordinances, rules or regulations concerning the speed at which motor vehicles may be operated in any park or parkway within a city or incorporated village, but in no case to permit a greater speed than is provided in this act, and as a condition thereto, such local authorities must, by signs at each entrance of such park and along said parkway, conspicuously indicate the rate of speed permitted or required, and may exclude motor vehicles from any cemetery or grounds used for the burial of the dead.

MUNICIPAL LIABILITY: As to liability of a municipality for injury to an automobile and driver caused by running into a pile of crushed sand and stone left in the street by a private contractor, see *Walls v. City of Detroit*, 171/612.

LOCAL ORDINANCES: Before the passage of the statute it was held that the city of Detroit had power under its charter to provide by ordinance for the registration, numbering and licensing of automobiles.—*People v. Schneider*, 139/673.

Local authorities may control within reason the use of their streets for any purposes whatsoever not inconsistent with the state law. They may pass ordinances regulating traffic in the streets.—*People v. McGraw*, 184/238.

(43) §4820. SEC. 24. Registration of chauffeurs. Every person hereafter desiring to operate a motor vehicle as a chauffeur shall file in the office of the Secretary of State an application together with an affidavit of the truth of the facts therein alleged on a blank to be furnished by the Secretary of State for that purpose, and shall accompany the same with a fee of two dollars. Said application shall set forth:

(a) The name and residence of the applicant and that he is competent to operate a motor vehicle and is over eighteen years of age;

(b) Whether or not the applicant has been previously convicted, the number of times and where, of a violation of any of the provisions of this or any other motor vehicle law or ordinance, giving the date and place of such conviction and the provision or provisions of the law or ordinance violated, and no chauffeur's license shall be issued under the provisions of this act to any person during any parole or probationary period imposed for such violation. The Secretary of State shall refuse to issue a license to any applicant under the provisions of this section who is addicted to the use of intoxicating liquors or drugs, or who for any reason is an unfit or unsafe person to operate a motor vehicle as chauffeur: Provided, That for all registrations after September first in any registration year a fee of one-half the rate provided in this section shall be paid;

(c) Re-registration annually. Such registration shall be renewed annually in the same manner and upon the payment of the same fee as provided in this section for original registration, such renewal to take effect on the first day of January of each year.

Am. 1919, Act 383.

CHAUFFEUR'S LICENSE: As to whether the fact that a chauffeur driving a car has no license, raises a presumption of negligence, *quaere*.—*Barger v. Bissell*, 188/375.

(44) §4821. SEC. 25. Chauffeurs' registration book. Furnishing lists to county clerks. Upon receipt of such an application the Secretary of State shall thereupon file the same in his office, assign the applicant a number and register him in a book or index, which shall be kept in the same manner as the book or index for the registration of motor vehicles. The Secretary of State shall also furnish to the clerk of every county of the State, within sixty days after this act takes effect, and once each month thereafter, a full and accurate list of chauffeurs so registered, with their addresses and the numbers assigned to each, in the same manner as provided in section three with reference to registered motor vehicles. Such lists shall be filed by such county clerks and be kept as public records, open to inspection during reasonable business hours.

(45) §4822. SEC. 26. Chauffeur's badge. The Secretary of State shall forthwith upon registering such chauffeur and without other fee, issue and deliver to him a badge of aluminum or other suitable metal which shall be in such form or shape as the Secretary of State may determine, and upon which shall be stamped the words "Registered Chauffeur number State of Michigan" with the number and date of expiration inserted therein. The badge shall thereafter be worn by such chauffeur pinned upon his clothing in a conspicuous place at all times while he is operating a motor vehicle upon the public highways of this State. In the event of the loss, mutilation or destruction of a chauffeur's badge, such chauffeur may obtain from the Secretary of State a duplicate thereof upon filing in the office of the Secretary of State an affidavit showing the fact and the payment of a fee of one dollar.

(a) Change form of shape of chauffeur's badge annually—Such badge shall be of a distinctly different shape or form for each year, to be designated and selected by the Secretary of State.

(b) Fictitious badge—No chauffeur having registered as herebefore provided shall voluntarily permit any other person to wear his badge; nor shall any person while operating a motor vehicle upon the public highways of this State wear a chauffeur's badge belonging to another person, or a fictitious chauffeur's badge.

(46) §4823. SEC. 27. Unregistered chauffeurs cannot drive motor vehicles. No person shall operate or drive a motor vehicle as a chauffeur upon the public highways of this State after this act takes effect unless such person shall have complied in all respects with the requirement of the foregoing sections: Provided, however, That a non-resident chauffeur who has registered under the provisions of the law of the state or province of his residence which are substantially similar to the provisions of the foregoing sections, shall be exempt from registration under the foregoing sections: Provided further, He shall wear the badge assigned to him in the state of his residence in the manner provided in section twenty-five: Provided further, That non-resident chauffeurs shall not be exempt from the provisions of the foregoing

sections unless the state of his residence extends similar privileges to chauffeurs registered under this act.

(47) §4824. SEC. 28. Penalties. Any person violating any of the provisions of this act and who shall be convicted thereof, or who shall plead guilty to any complaint for the violation thereof, shall be punished by a fine not exceeding twenty-five dollars and costs of prosecution, or if such fine be not paid then by imprisonment in the county jail for not exceeding ten days; for the second offense he shall be punished by a fine not exceeding fifty dollars and costs of prosecution, or if such fine be not paid then by imprisonment in the county jail for not exceeding thirty days; and for a third, or any subsequent offense he shall be punished by a fine not exceeding one hundred dollars and costs of prosecution, or by imprisonment in the county jail or the Detroit House of Correction for a period not exceeding sixty days, or by both such fine and imprisonment.

(48) §4825. SEC. 29. Civil actions. Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil action for damages by reason of injuries to person or property resulting from the negligence of the owner or operator or his agent, employe or servant, of any such motor vehicle, or resulting from the negligent use of the highway by them or any of them. The owner of a motor vehicle shall be liable for any injury occasioned by the negligent operation of such motor vehicle, whether such negligence consists in violation of the provisions of the statutes of this State or in the failure to observe such ordinary care in such operation as the rules of the common law require: Provided, That the owner shall not be liable unless said motor vehicle is being driven by the express or implied consent or knowledge of such owner. In the event said motor vehicle is being driven at the time of said injury by the father, mother, brother, sister, son, daughter, or other immediate members of the family of the owner of said motor vehicle, then it shall be conclusively presumed that said motor vehicle is being driven by the consent or with the knowledge of such owner.

CONSTITUTIONALITY: The statutory liability created by Subdivision 3 of Section 10 of Act 318 of 1909 is not a necessary regulation in the exercise of the police power and is unconstitutional.—*Daugherty v. Thomas*, 174/390; *Loehr v. Abell*, 174/593; *Mitchell v. Lumber Co.*, 175/75; *Barry v. Metzger Motor Car Co.*, 175/467; *Levyn v. Koppin*, 183/238. The *Daugherty* case overrules *Johnson v. Sergeant*, 168/444 which held that Subdivision 3 of Section 10 of the Act of 1909 was a valid exercise of the police power of the state.

NEGLIGENCE: In an action for damages resulting from a collision between two automobiles on the highway causing one to go over an embankment, it was competent for plaintiff to show that defendant was running his car at such an unreasonable rate of speed, forcing his car in front of the car in which plaintiff was riding, in such manner as to disconcert the driver of the latter car causing it to go over the embankment. The unlawful speed would be evidence of negligence.—*Granger v. Farrant*, 179/32.

It is negligence for a driver of an automobile having ample space to pass a pedestrian on a highway to so guide the car as to strike him in passing.—*Schock v. Cooling*, 175/323.

Absence of lights on a car was testimony tending to prove negligence.—*Zoltovski v. Gzella*, 159/622.

The statute provides that the lamps on an automobile shall be lighted within one hour after sunset. In an action for damages where the exact time of the accident was in dispute it was competent for plaintiff to show that other automobiles, met before the accident, had their lights burning, as having some evidentiary

qualities bearing on whether it was light or dark at the time of the accident. Mankind as a rule does not walk under open umbrellas in dry weather, nor light lamps in buildings nor carry lighted lanterns around in daylight.—*Schock v. Cooling*, 175/325.

One operating a motorcycle on a highway is governed by the Motor Vehicle Law.—*Scott v. Dow*, 162/636; *People v. Smith*, 156/175.

Owners of automobiles have the same rights in the streets and highways of the state that the drivers of horses have, but the right of either class is not to use the means of locomotion without regard to the right of others having occasion to travel the highway. The degree of care required of either the driver of a horse or the chauffeur of an automobile is governed by the character of the agency employed.—*Wright v. Crane*, 142/510.

Violation of a statute imposed under the police power is negligence per se, but violation of an ordinance is not.—*Westover v. Grand Rapids Railway Co.*, 180/378; *Levyn v. Koppin*, 183/237.

Where a team which was never before known to run away was in charge of a careful driver, and without fault on his part, ran away and collided with an automobile, the owner of the team is not liable for the injury to the automobile.—*Stuch v. Town*, 178/478.

Where defendant's car was on the wrong side of the street passing a vehicle it was meeting to the left, a prima facie case of actionable negligence is presumed when such negligence is shown to have had a casual relation to the injury inflicted on the plaintiff.—*Winckowski v. Dodge*, 183/308.

The fact of an accident does not establish liability nor raise a presumption that the driver was negligent.—*Barger v. Bissell*, 188/375.

The provisions of this section that the owner of a motor vehicle shall be liable for any injury occasioned by the negligent operation of such motor vehicle when it is being driven by another with his express or implied consent or knowledge, where the owner loans it to a company for use in its business and a wagon and team belonging to a third person are injured as the result of the negligence of the company's driver, the owner is liable.—*Stapleton v. Independent Brewing Co.*, 198/170. The negligence of the driver of an automobile cannot be imputed to an infant occupying it as a passenger.—*Donlin v. Detroit United Ry.*, 198/228.

See *Mittelstadt v. Kelly*, 202/524; *Roy v. Kirn*, 208/571.

LAW OF ROAD: When two vehicles are passing it is the duty of each driver to look out for pedestrians suddenly appearing from behind the other vehicle.—*Winckowski v. Dodge*, 183/308.

The owner or operator of an automobile is not exempt from liability for a collision in a street by simply showing that he was not exceeding the speed limit. He must keep his machine under control and keep a proper lookout.—*Winckowski v. Dodge*, 183/309.

One who violates the law of the road by driving on the wrong side assumes the risk of such experiment.—*Winckowski v. Dodge*, 183/308; *Barger v. Bissell*, 188/375.

CONTRIBUTORY NEGLIGENCE: Contributory negligence cannot be imputed to a plaintiff for failure to anticipate negligent acts of a defendant.—*Winckowski v. Dodge*, 183/312; *Brown v. Mitts*, 187/469.

Even an adult is not barred from recovery when run into by an automobile while crossing a street, merely because of failure to look in each direction before starting to cross.—*Winckowski v. Dodge*, 183/312.

The driver of an automobile need not stop his car because another car is approaching him at a rapid rate of speed, where there is ample room to pass.—*Brown v. Mitts*, 187/469.

It is contributory negligence as a matter of law for a boy thirteen years of age to become so engrossed in play as to run across a city street and immediately in front of an approaching automobile without thought to see whether such a machine or any other vehicle was approaching.—*Zoltovski v. Gzella*, 159/623.

But with a child seven years of age the question of contributory negligence precluding recovery in case the defendant is shown guilty of negligence, is usually an issue of fact for the jury.—*Barger v. Bissell*, 188/375. See also *Weil v. D. U. R.*, 186/614.

It is contributory negligence as a matter of law for a man of mature years, unimpaired faculties, on a clear day to cross a main thoroughfare in the city of Detroit, having a clear view of one-half mile and to walk right into the path of an automobile running along on the proper side of the street at a moderate speed.—*Tolmie v. Woodward Taxicab Co.*, 178/426.

As to when plaintiff's contributory negligence is a question for the jury, see *Webber v. Billings*, 184/125.

If the driver of the car in which plaintiff was riding was guilty of contributory negligence, such negligence might be imputed to the plaintiff.—*Granger v. Farrant*, 179/34.

When the driver of an automobile is about to cross a street car track and he observes an approaching street car which may obstruct his passage he must be watchful of it until he has passed the danger point and reaches a place of safety.—*Westover v. Grand Rapids Railway Co.*, 180/376.

Where the driver of an automobile gets into a dangerous position with his car in the face of an approaching street car, it is the duty of the motorman to use every precaution to avoid a collision.—*Huff v. M. U. T. Co.*, 186/88.

PLEADINGS: A declaration should contain an allegation of duty and breach of duty. But when the facts are so set forth in the declaration that the duty can be implied the declaration will be sustained in the absence of a demurer.—*Jolman v. Alberts*, 186/643.

OWNER AND SERVANT: If an employer loans a servant to another for some special service, the latter with respect to that service may become liable as a master for the acts of the servant without any actual contract of employment between them or payment for service.—*Janik v. Ford Motor Co.*, 180/562; but see *Sweetnam v. Snow*, 187/414.

As to when the question of whether defendant was the actual owner of the car, is a question for the jury, see *Webber v. Billings*, 184/125.

LIABILITY OF OWNER: Where a car was driven by a son for his own pleasure, but by permission of his father, the owner, the father is not liable for an injury resulting from a collision while the car was being driven by his son.—*Loehr v. Abell*, 174/592.

The owner of an automobile is not liable for the negligent operation of the car by a person who obtains possession of it without his knowledge or consent.—*Daugherty v. Thomas*, 174/372.

The owner of an automobile is not liable for the negligent operation of his car by his chauffeur who took the car without his knowledge or consent and contrary to his express instructions and without the knowledge or consent of any member of his family. He was not acting within the scope of his employment.—*Riley v. Roach*, 168/307.

The owner of an automobile in the absence of statutory liability is not liable for the negligence of a borrower where the machine was not used in the master's business.—*Hartley v. Miller*, 165/119.

Damages for loss of the services of plaintiff's wife arising from being thrown out of a buggy due to the reckless driving of an automobile by defendant's tester, are recoverable in an action by the husband.—*Gregory v. Oakland Motor Car Co.*, 181/102.

EVIDENCE: In a suit for damages arising out of a collision with an automobile on the highway where excessive speed was relied on as a ground of negligence, it was not error to permit plaintiff who had ridden in automobiles and observed them, to testify that the car was going at a much greater speed than ten miles per hour.—*Matla v. Rapid Motor Vehicle Co.*, 160/642.

It is error to permit a witness to give his opinion as to the average speed of a car or the rate of speed, he being one and one-half miles from the accident.—*People v. Barnes*, 182/189.

But in an action for damages resulting from a horse attached to the vehicle in which plaintiff was riding, taking fright at an approaching automobile, it was error to permit a witness for plaintiff to testify as to the speed of the automobile in the face of his admission that he did not discover the automobile until it was within twenty feet of the rig.—*Wright v. Crane*, 142/510.

In an action for damages resulting from a collision between two automobiles on the highway causing one to go over an embankment, the condition of the cars after the injury was material. But repair cards prepared at defendant's garage after the injury were self-serving and incompetent.—*Granger v. Farrant*, 179/30.

BURDEN OF PROOF: Where the facts are in dispute, the question of defendant's negligence and plaintiff's contributory negligence are for the jury.—*Reed v. Martin*, 160/253; *Chapman v. Strong*, 162/623; *Gerhard v. Ford Motor Co.*, 155/619; *Andries v. Everitt-Metzger-Flanders Co.*, 177/111; *Goosen v. Packard Motor Car Co.*, 174/654; *Huff v. M. U. T. Co.*, 186/88.

Where the plaintiff was struck by an automobile while crossing a street it was not error for the court to charge that if they found that the defendant failed to have the lights lighted or failed to blow the horn or slow down, he would be liable, when the court repeatedly told the jury that unless the negligence was the proxi-

mate cause of the accident, and the plaintiff free from contributory negligence, there could be no recovery.—*Bauma v. Dubois*, 169/434.

Where defendant's automobile coming from the rear and attempting to pass, collided with plaintiff's wagon, it was error to charge that the fact of the collision raised a presumption of negligence.—*Grogitski v. Detroit Ambulance Co.*, 186/374.

(49) §4826. SEC. 30. All police justices of any city, or justices of the peace of the county where any such violations shall occur shall have jurisdiction to hear, try and pass sentence for any and all violations of any of the provisions of this act.

(50) §4827. SEC. 31. The term "county jail" referred to in section twenty-eight of this act shall be construed to mean the county jail of any county where the violation of any of the provisions of this act shall occur, and the Detroit House of Correction shall be construed to mean the institution of that name located in the city of Detroit this State.

(51) §4828. SEC. 32. Any police officer of any city, any marshal, deputy marshal or watchman of any incorporated village, or any sheriff or deputy sheriff of any county or any constable of any township shall have full power and authority within the limits of their jurisdiction or in any adjoining county to arrest any person known personally to any such officer to have violated any of the provisions of this act, and to immediately bring such offender before any magistrate having jurisdiction, as provided in section thirty of this act, and any such person so arrested shall have the right of an immediate trial and all other rights given to any person arrested for having committed a misdemeanor; and if such hearing cannot then be had, be released from custody on giving his personal undertaking to appear in answer to such violation at such time and place as shall then be indicated, secured by the deposit of a sum equal to the maximum fine for the offense with which he is charged or in lieu thereof by leaving the motor vehicle being operated by such person with such officer; or in case such officer be not accessible be forthwith released from custody on giving his name and address to the officer making such arrest, and depositing with such officer a sum equal to the maximum fine for the offense for which such arrest is made or in lieu thereof by leaving the motor vehicle being operated by such person with such officer: Provided, That in such case the officer making such arrest shall give a receipt in writing for such sum or vehicle and notify such person to appear before the most accessible magistrate, naming him, on that or the following day, specifying the place and hour. In case security shall be deposited as in this section provided it shall be returned to the person depositing forthwith on such person being admitted to bail.

(52) §4829. SEC. 33. Certifying convictions to the Secretary of State. Upon the conviction of any person for a violation of any of the provisions of this act, the magistrate or other judicial officer before whom the proceedings are held, shall immediately certify the facts of the case, including the name and address of the offender, the character of the punishment and the amount of any fine imposed and paid to the Secretary of State, who shall enter the same either in the book or index of registered

motor vehicles or in the book or index of registered chauffeurs as the case may be, opposite the name of the person so convicted, and in the case of any other person, in the book or index of offenders to be kept for such purpose in alphabetical order. The Secretary of State shall send notices of all convictions for violations of section twenty-one of this act, with the names and addresses of the persons convicted and the judgments of the court on such convictions to the clerk of every county in the State, who shall enter the same on the lists of registered motor vehicles or registered chauffeurs as the case may be, opposite the name of the person so convicted, or on a list of other offenders which he shall maintain in his office as a public record in the same manner as the lists of registered motor vehicles and registered chauffeurs, and on due application furnish copies of such lists to the magistrates or other judicial officers of his county before whom violations of the provisions of this act are triable. If any such convictions shall be reversed upon appeal therefrom the person whose conviction has been so reversed may serve on the Secretary of State a certified copy of the order of reversal, whereupon the Secretary of State shall enter the same in the proper book or index in connection with the record of such conviction, and shall also notify each county clerk of the same.

(53) §4830. SEC. 34. All fees paid to the Secretary of State as provided in this act shall be turned over to the State Treasurer and applied to the State highway fund, to be applied to the building, improvement and maintenance of the highways of the State under such division of said fund and for such purposes as the highway laws of the State shall provide, to be paid out by the State Highway Commissioner in accordance with the statutory provisions therefor: Provided, That fifty per cent of the amount collected from the registered motor vehicles in each county shall be returned to the treasurer of each county, to be used to maintain the highways by the local authorities: Provided further, That in counties not operating under the county road system, the board of supervisors shall apportion such tax received to the several townships and cities according to the assessed valuation thereof, to be used by such townships and cities for the construction and maintenance of the highways. The Secretary of State shall certify to the Auditor General on January first of each year and at the end of each quarter thereafter, or as soon thereafter as is possible, the amounts received from the several counties for motor vehicle taxes under the provisions of this act for the preceding quarter; the Auditor General shall thereupon draw his warrant on the State Treasurer for such amounts as are due the said counties under the provisions of this section. Any moneys remaining in either fund at the close of any year shall be carried over by the Auditor General and added to the funds which become available for the following year.

Am. 1919, Act 383.

The statute is not unconstitutional because it provides that the funds secured by the specific tax shall be devoted to up-building the state highways in that it infringes the provisions of Section 1, Article x, of the constitution, limiting the sources of contributions to the primary school fund to that purpose alone.—*Jasnowsky v. Bd. of Assessors*, 191/288.

(54) §4831. SEC. 35. Act number three hundred eighteen, Public Acts of nineteen hundred nine and all acts or parts of acts inconsistent herewith or contrary hereto are hereby expressly repealed.

(55) §4832. SEC. 36. Title of this act and when it takes effect. This act shall be known as the "Michigan motor vehicle law" and shall take effect the first day in January, nineteen hundred sixteen: Provided, That application for registration may be made and registration certificates and badges issued at any time within sixty days prior to such date.

(56) SEC. 37. It shall be competent for the Secretary of State to appoint an inspector who shall be charged with the duty of assisting police officers of the State in the detecting and punishing violations of the provisions of this act. Such inspectors shall receive such compensation as may be fixed by the Secretary of State, at a salary not to exceed one thousand eight hundred dollars per annum, which shall be paid out of the general fund in the State Treasury in the same manner as other State employes are paid. Any such inspector shall have full authority to enter any garage, factory or other public place where motor vehicles are stored at any reasonable time and to examine motor vehicles and license plates therein. While performing the duties of his office any such inspector shall have the general power vested by law in deputy sheriffs. Any person obstructing or interfering with any such inspector shall be deemed guilty of a misdemeanor and subject to the penalty prescribed in section twenty-eight for a violation of this act. Any such inspector may make a complaint before a magistrate alleging a violation of the provisions hereof, and security for costs shall not be required in any such case as a prerequisite to the issuance of a warrant: Provided, That upon certification to him of any conviction as hereinbefore provided, it shall be competent for the Secretary of State to revoke any license granted to the person so convicted. Notice of such revocation shall be immediately forwarded to the county clerks of the State.

Added 1919, Act 383.

(57) SEC. 38. The Secretary of State is hereby given authority to establish temporary offices in different parts of the State in order to facilitate the prompt and efficient distribution of number plates hereunder; and shall appoint some suitable and capable person to have charge of any such branch office. Proper bond may be required therefrom in such amount as the Secretary of State may prescribe to cover the safe handling of any and all moneys received hereunder: Provided, That any such person so appointed to conduct a branch office shall receive such compensation as the Secretary of State may fix, and necessary expenses of the office, which compensation and expenses shall be paid out of the fund received from motor vehicle licenses, which sums are to be deducted from said fund before same is certified to the Auditor General for apportionment to the several counties of this State.

Added Id.

OPERATOR'S LICENSE.

AN ACT to provide for the licensing of operators of motor vehicles, and the suspension and revocation of such licenses in certain cases.

[Act 368, P. A. 1919.]

The People of the State of Michigan enact:

(58) SECTION 1. Every person hereafter desiring to operate a motor vehicle upon the public highways of this State, shall first obtain a license for that purpose as hereinafter provided, but no such license shall be issued unless the applicant is over fourteen years of age. If the application for license, such as is required herein, shows that the applicant for such has a physical defect which might affect the operation by him or her of such motor vehicle, the examiner may require such applicant to show cause why a license should be granted to him or her, and may require such applicant, by personal examination and demonstration, to show that, notwithstanding such defect or defects, he or she is a proper person to operate a motor vehicle on the public highways; and if the examiner be satisfied, after such examination, that such applicant in spite of his or her physical defect is of ability to operate such motor vehicle, the license to him or her may be issued, subject, however, to a limitation to operate only such motor vehicles as the license shall designate.

Am. 1919 (Ex. Sess.), Act 23; 1921, Act 91.

(59) SEC. 2. Application for license shall be filed with the Secretary of State after approval of the local examiner, as hereinafter provided; shall be accompanied by a fee of fifty cents; shall be made upon blanks furnished by the Secretary of State; and such application shall be in such form and contain such provisions, not inconsistent with this act, as said Secretary of State may determine, but said application shall contain the following: Name, age, postoffice address, place of residence and whether or not said applicant has any physical defects which might affect his or her operation of a motor vehicle on the public highways, and whether or not applicant has been convicted of a previous violation of any law governing the operation of motor vehicles or of this act and if so, whether or not his operator's license has been revoked or suspended, giving the date. Such application must be under oath and signed personally by the applicant for the license. All fees collected by the Secretary of State under this act shall be turned over to the State Treasurer and credited to the general fund: Provided, however, That in case of a chauffeur who has applied for and obtained his chauffeur's license which any act requires him to procure before operating a motor vehicle on the highways of this State, he shall not be required to pay the fifty-cent license fee provided for in this act.

Am. Id.

(60) SEC. 3. The application for the license herein provided for shall be first presented for approval, if the applicant be a resident of a city to the chief of the police

department of such city, or if a resident of a village or township to the sheriff or one of his deputies of the county in which such village or township is located. It shall by [be] the duty of each chief of police or sheriff, or deputy sheriff, as the case may be, to whom such application is presented, to personally examine such applicant, either by an oral examination or by practical demonstration to ascertain such person's ability to properly operate a motor vehicle and such examination shall also include questions touching upon such applicant's knowledge of the motor vehicle laws of this State. If such applicant shall demonstrate to the satisfaction of the examiner that he or she is qualified to operate a motor vehicle, the examiner shall approve such application and such application may then be filed with the Secretary of State, as above provided. No license shall be granted by the Secretary of State without such approval by the local examiner: Provided, however, That any applicant shall have the right to an appeal to the Secretary of State from the decision of any local examiner.

(61) SEC. 4. The Secretary of State shall assign a distinguishing number to each license and shall keep a proper record of all licenses issued, which record shall be open to public inspection. He shall issue a license card or tag to each licensee. Each license card or tag shall state among other things: Name, age, place of residence, postoffice address, address of the licensee, the number assigned to him or her, a brief description of the licensee for the purpose of identification, and such other facts and provisions, not inconsistent with this act, as said Secretary of State may determine. Every person licensed to operate motor vehicles, as aforesaid, shall, upon receipt of said license card or tag endorse his or her signature thereon in a space provided for the purpose, and such license shall not be valid until such card or tag is endorsed. Said license card or tag shall at all times be carried by the licensee when he or she is operating a motor vehicle along the public highways of this State and shall be given up by him or her for examination upon demand by any proper officer. In event of the loss or destruction of a license card or tag by any person duly licensed under the provisions of this act, said person may obtain a duplicate thereof, upon filing in the office of the Secretary of State an affidavit showing the fact and the payment of a fee of twenty-five cents.

Am. 1919, (Ex. Sess.), Act 23.

Sec. 5 was repealed by Act 70, P. A. 1921.

(62) SEC. 6. Any certificate or license for any operator issued under the provisions of this act by the Secretary of State upon an application which is untrue or which contains any false statements as to any material matters shall be absolutely void from the date of its issuance, and said operator shall be deemed to be unlicensed, and said certificate so issued can be at once taken up upon request or order of the Secretary of State.

(63) SEC. 7. Nothing herein contained shall prevent a non-resident operating a motor vehicle upon the public highways of this State during the period in which he can lawfully operate such vehicle in this State, even though he has not obtained a license from the Secretary of State, provided he is duly licensed under the laws of

the state in which he resides, or has complied fully with the laws of the state of his residence respecting the licensing of motor vehicles and their operators; but if any such non-resident, his chauffeur, or employe, be convicted by any court of violating any of the provisions of the laws of this State relating to motor vehicles or to the operation thereof, he shall thereafter be subject to and required to comply with all provisions of this act relating to the registration of motor vehicles owned by residents of this State and the licensing of the operators thereof.

(64) SEC. 8. The Secretary of State may suspend, for not more than one year, any license issued to any person under the provisions of this act if such person shall have been convicted of reckless driving, of operating a motor vehicle while under the influence of intoxicating liquors or drugs, or, after causing injury to any person or damage to any property, of leaving the scene of the accident without giving his name and address. The Secretary of State may also, after a hearing, order a license of any holder thereof to be delivered to him whenever it is established to his satisfaction that the holder thereof, by reason of physical or mental defects or incapacity, is an improper person to operate a motor vehicle, and such license shall not be redelivered to such holder unless, upon petition of such holder and after investigation, the Secretary of State finds that such person is physically and mentally competent to properly operate a motor vehicle: Provided, That the Secretary of State shall suspend no license except after a hearing and, where the licensee is a resident of a city, except upon a written complaint of the chief of police, approved by the mayor of such city, and, where the licensee is a resident of a township or village, except upon the written complaint of the sheriff or his chief deputy of the county where such licensee resides approved by the supervisor of the township where such licensee resides, which complaint shall be addressed to the Secretary of State and shall set forth that such licensee has been convicted of reckless driving, of operating a motor vehicle while under the influence of intoxicating liquors or drugs, or, after causing injury to any person or damage to any property while operating a motor vehicle, of leaving the scene of the accident without having given his name and address to the person who was injured or whose property was damaged: Provided, That reckless driving, as referred to in this act, is defined as the operation of a motor vehicle on the public highways of this State in such a manner as to endanger the life and limb of any person or the safety of any property.

(65) SEC. 9. The provisions of this act with reference to registration of operators shall in no wise affect, amend or repeal the provisions of the act covering the registration of chauffeurs. It is hereby expressly provided that they shall comply with the provisions of this act and be subject to the suspension and revocation of the license provided for herein notwithstanding the provisions of any act in force controlling their operation of motor vehicles as chauffeurs.

Am. 1921, Act 91.

(66) SEC. 10. Any person operating a motor vehicle in this State without the required license therefor, as by

this act provided, shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the county jail not exceeding three months, or by both such fine and imprisonment in the discretion of the court.

Defining Crime of Negligent Homicide.

AN ACT to define the crime of negligent homicide, when committed by the operation of a vehicle, and to prescribe penalties for said crime.

[Act 98, P. A. 1921.]

The People of the State of Michigan enact:

(67) SECTION 1. Every person who, by the operation of any vehicle at an immoderate rate of speed or in a careless, reckless or negligent manner, but not wilfully or wantonly, shall cause the death of another, shall be guilty of the crime of negligent homicide and upon conviction shall be sentenced to pay a fine not exceeding one thousand dollars, or to undergo imprisonment in the State prison for a period not exceeding five years, or by both such fine and imprisonment in the discretion of the court.

(68) SEC. 2. The crime of negligent homicide shall be deemed to be included within every crime of manslaughter charged to have been committed in the operation of any vehicle, and in any case where a defendant is charged with manslaughter committed in the operation of any vehicle, if the jury shall find the defendant not guilty of the crime of manslaughter such jury may in its discretion render a verdict of guilty of negligent homicide.

(69) SEC. 3. In any prosecution under this act, whether the defendant was driving at an immoderate rate of speed shall be a question of fact for the jury and shall not depend upon the rate of speed fixed by law for operating such vehicle.

Taking Possession and Driving Away of Motor Vehicle Made Felony.

AN ACT to make it a felony to take possession of and to drive away any automobile or other motor vehicle in certain cases and to provide a penalty therefor. (a)

[Act 44, P. A. 1907.]

The People of the State of Michigan enact:

(70) §15430. SECTION 1. Any person who shall wilfully or wilfully and wantonly and without authority, take possession of and drive or take away and any person who shall assist in and be a party to such taking possession of, driving or taking away of any automobile or other motor vehicle belonging to another and lawfully standing in any street, alley, garage, stable or other place, shall be deemed guilty of a felony and on conviction thereof shall

(a) Title am. 1917, Act 220.

be punished by imprisonment in the State prison for a term not less than one year nor more than ten years: Provided, That the provisions of act one hundred five of the Public Acts of nineteen hundred thirteen shall not apply to any person convicted of a second or subsequent offense under the provisions of this act.

Am. 1917, Act 220; 1919, Act 313.

Unauthorized Taking of Motor Vehicle Without Intent to Steal.

AN ACT to prohibit the unauthorized taking or using of automobiles or other motor vehicles by drivers or caretakers thereof, or by any other person or persons, without intent to steal the same, and to provide a penalty therefor.

[Act 33, P. A. 1909.]

The People of the State of Michigan enact:

(71) §15431. SECTION 1. Every person who takes or uses without authority an automobile or other motor vehicle without intent to steal the same, or who shall be a party to such unauthorized taking or using, shall upon conviction thereof be punished by imprisonment in the State prison for not more than two years or by a fine of not more than five hundred dollars: Provided, That in case of first offense the court may in its discretion reduce the punishment to imprisonment in the county jail for a term of not more than three months or a fine of not more than one hundred dollars: Provided further, That the provisions of this act shall be construed to apply to any person or persons employed by the owner of said automobile or other motor vehicle or any one else, who, by the nature of his employment, shall have the charge of, or the authority to drive said automobile or other motor vehicle if said automobile or other motor vehicle is driven or used without the owner's knowledge or consent.

See *Loehr v. Abell*, 174/592; *Daugherty v. Thomas*, 174/378; *Johnston v. Cornelius*, 200/209.

Damaging or Unauthorized Tampering With Motor Vehicle.

AN ACT to make unlawful the damaging or unauthorized tampering or meddling with a motor vehicle or with the motor or other parts thereof, and providing a penalty therefor.

[Act 219, P. A. 1917.]

The People of the State of Michigan enact:

(72) SECTION 1. It shall be unlawful for any person, intentionally and without authority from the owner, to start or cause to be started the motor of any motor vehicle, or to maliciously shift or change the starting device or gears of a standing motor vehicle to a position other than

that in which it was left by the owner or driver of said motor vehicle, and it shall be unlawful to intentionally cut, mark, scratch or damage the chassis, running gear, body, sides, top, covering or upholstering of any motor vehicle, the property of another, or to intentionally cut, mash, mark, destroy or damage such motor vehicle, or any of the accessories, equipment, appurtenances or attachments thereof, or any spare or extra parts thereon being or thereto attached, without the permission of the owner thereof, or to intentionally release the brake upon any standing motor vehicle, with intent to injure said machine or cause the same to be removed without the consent of the owner: Provided, That this act shall not apply in case of moving or starting of motor vehicles by the police under authority of local ordinance or by members of fire departments in case of emergency in the vicinity of a fire. Any person who shall violate any of the provisions of this act shall, upon conviction thereof, be punished by a fine of not exceeding one hundred dollars or imprisonment in the county jail for a period not exceeding ninety days, or by both such fine and imprisonment in the discretion of the court. For the purposes of this act the words "motor vehicle" shall include all vehicles propelled by any power other than muscular power except traction engines, road rollers and such vehicles as run only upon rails or tracks.

Protecting Owners Against Damage to Vehicles in Garage.

AN ACT to protect the owners of motor vehicles, entrusting the same for any purpose, to the care, custody or control of the owner or keeper of a public garage or other establishment where such motor vehicles are so accepted for hire or gain.

[Act 391, P. A. 1919.]

The People of the State of Michigan enact:

(73) SECTION 1. Whenever any damage shall be done to any motor vehicle while in the possession or under the care, custody or control of the owner, his agent or servant, or the keeper of any public garage or other establishment where such vehicle shall have been accepted for hire or gain, proof of such damage shall be prima facie evidence that such damage was the result of the negligent act of such owner or keeper of the place where such vehicle was stored.

(74) SEC. 2. If any integral part, appliance or equipment, any spare tire fastened to such motor vehicle or any part, appliance or equipment locked in or to such vehicle shall be removed or shall disappear therefrom while such vehicle is so held, proof of such removal or disappearance shall be prima facie evidence of conversion by the owner or keeper of the garage or other establishment where such vehicle was so held.

(75) SEC. 3. The provisions of this act shall not apply unless the owner of a motor vehicle so placed in any public garage or other establishment as herein provided, shall examine the same before leaving such garage or other establishment or the grounds or street imme-

diately adjacent thereto, and, upon discovery of any loss or damage, forthwith notify the owner or keeper of such garage or other establishment of the loss or damage claimed.

(76) SEC. 4. The owner or keeper of any such garage or other establishment may provide blank forms upon which a description of the condition of any motor vehicle when so left in his care, may be noted; and when so provided and properly filled out in duplicate, he may require the owner of such motor vehicle to sign the same before leaving such vehicle. And if such a signed description is made, the owner or keeper of the garage or other establishment shall deliver a copy thereof to the owner of the vehicle. Refusal by the owner of such vehicle to sign such form shall be a bar to recovery under this act.

(77) SEC. 5. This act is hereby declared to be in the interest of public policy and no contract nullifying the provisions hereof shall be valid.

Concealing Identity of Motor Vehicle.

AN ACT to make it unlawful to conceal or misrepresent the identity of motor vehicles by removing or defacing the manufacturer's serial number or the engine number and providing penalties for violation. (a)

[Act 182, P. A. 1917.]

The People of the State of Michigan enact:

(78) SECTION 1. Hereafter it shall be unlawful for any person or persons to conceal or misrepresent the identity of a motor vehicle as defined in section one of act number three hundred two of the Public Acts of nineteen hundred fifteen or any amendment thereto by removing or defacing the manufacturer's serial number or the engine number on such motor vehicle or by replacing any part of such motor bearing the serial number or engine number with a new part upon which the proper serial number or engine number has not been stamped.

Am. 1919, Act 115.

(79) SEC. 2. In all prosecutions under this act possession by any person, firm or corporation of any motor vehicle as defined in section one of act number three hundred two of the Public Acts of nineteen hundred fifteen with the manufacturer's serial number or the engine number removed, defaced, destroyed or altered or with the part bearing such number or numbers replaced by one on which the proper number does not appear shall be prima facie evidence of violation of the provisions of this act.

Am. Id.

(80) SEC. 3. Any person, firm or corporation violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum of not more than one hundred dollars or be imprisoned in the county jail for not more than ninety days, or both such fine and imprisonment in the discretion of the court.

(a) Title am. 1919, Act 115.

Vehicles Struck from the Rear.

AN ACT to create a prima facie presumption of negligence in certain cases where a vehicle is struck from the rear.

[Act 236, P. A. 1919.]

The People of the State of Michigan enact:

(81) SECTION 1. In any action, in any court in this State when it is shown, by competent evidence, that a vehicle traveling in a certain direction, overtook and struck the rear end of another vehicle proceeding in the same direction, or lawfully standing upon any highway within this State, the driver or operator of such first mentioned vehicle shall be deemed prima facie guilty of negligence. This act shall apply, in appropriate cases, to the owner of such first mentioned vehicle and to the employer of its driver or operator.

(82) SEC. 2. This act may not be invoked by the owner of any vehicle, the rear of which was struck under the circumstances above mentioned, if the accident occurred between one hour after sunset and one hour before sunrise and the vehicle so struck did not, at the time, have a lighted lamp or lantern reasonably visible to the drivers of vehicles approaching from the rear.

Driving of Motor Vehicle by Intoxicated, Etc., Person.

AN ACT to prohibit the driving or operation of motor vehicles by persons under the influence of intoxicating liquor, or of any exhilarating or stupefying drug, and to provide penalties therefor.

[Act 164, P. A. 1917.]

The People of the State of Michigan enact:

(83) SECTION 1. Hereafter it shall be unlawful for any intoxicated person or any person under the influence of any exhilarating or stupefying drug, to drive, operate or have charge of the power or guidance of any automobile, motor cycle or other motor vehicle, upon any public highway, street, avenue, driveway or alley within this state. It shall also be unlawful for the owner of any motor vehicle, or for the person having such vehicle in charge or under his control to knowingly permit the same to be driven or operated upon any public highway, street, avenue, driveway or alley within this state by any person under the influence of intoxicating liquor or any exhilarating or stupefying drug.

(84) SEC. 2. Any person violating the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be liable to a fine of not less than fifty dollars, nor more than one hundred dollars, or to imprisonment in the county jail or the Detroit House of Correction for not more than ninety days, or to both such fine and imprisonment in the discretion of the court.

Use of Motor Vehicles on Sidewalks.

AN ACT to prohibit the use of bicycles, motor cycles or other motor vehicles, on sidewalks in unincorporated villages, or plat or plats not in any incorporated village or city.

[Act 38, P. A. 1917.]

The People of the State of Michigan enact:

(85) SECTION 1. It shall be unlawful for any person or persons to operate or ride a bicycle, motor cycle or other motor driven vehicle upon that part of the street or highway where sidewalks have been regularly laid out and constructed for the use of pedestrians, not including cross walks, in any unincorporated village, or plat or plats, not in any incorporated village or city.

(86) SEC. 2. Any person or persons who shall violate the provisions of this act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding fifty dollars, or be confined to the county jail for a period not exceeding thirty days or both in the discretion of the court.

Standard Gauge for Vehicles.

AN ACT to standardize the gauge of vehicles to be used on the public highways of this State and to regulate the manufacture, sale and use thereof.

[Act 73, P. A. 1919.]

The People of the State of Michigan enact:

(87) SECTION 1. On and after the first day of January, nineteen hundred twenty-one, the standard gauge for all vehicles to be used on the public highways of this State shall be fifty-six inches from center to center of tread and it shall thereafter be unlawful to use on any of the public highways of this State or to manufacture, sell or offer for sale, for use on any of the public highways of this State any vehicle of other than standard gauge except such vehicles as are used for extraordinary purposes. For the purposes of construing this act, motor trucks, moving vans, logging sleighs, with a wider draft than above standard gauge, cutters and light delivery sleighs shall be conclusively presumed to be vehicles used for extraordinary purposes: Provided, however, That nothing in this act contained shall be construed to prohibit the use or sale of any vehicle owned in this State at the time this law goes into effect.

(88) SEC. 2. Any person, firm or corporation, violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction, shall be fined in the sum of not less than five dollars nor more than twenty-five dollars, or be confined in the county jail for not less than five days nor more than twenty-five days, or both such fine and imprisonment in the discretion of the court,

Operation of Trucks and Trailers.

AN ACT to regulate the operation and use of vehicles on the highways.

[Act 132, P. A. 1917.]

The People of the State of Michigan enact:

(89) SECTION 1. It shall be unlawful to operate any vehicle upon the public highways of this State, the gross weight of which exceeds fifteen tons.

(90) SEC. 2. It shall be unlawful to operate any vehicle, except motor driven vehicles, upon the highways of this State, the gross weight on any wheel of which exceeds that given in the schedule under section three, this act:

(91) Sec. 3.

Width of Tire in Inches.	1	1½	2	2½	3	3½	4	4½	5
Maximum Wheel Load in Pounds.	400	600	800	1100	1400	1800	2200	2700	3200
Maximum Load for 4 Wheels.	1600	2400	3200	4400	5600	7200	8800	10800	12800

(92) SEC. 4. In case a vehicle is equipped with a braking device said brakes shall be of a friction type and not of a type that will cause a deadlock of the wheels when applied.

(93) SEC. 5. No motor trucks or trailers, hereafter operating upon the public highways of the State, shall have a gauge of more than seventy-five inches measured from center of tire to center of tire, and shall not be more than ninety-six inches wide over all nor over twelve feet six inches in height.

(94) SEC. 6. No motor trucks or trailers, hereafter operating upon the public highways of this State, shall be equipped with driving wheels the tires of which are of metal that may come in contact with the surface of the road, or which have a partial contact of the metal with the surface of the road, except where chains or other non-skidding devices are used: Provided, That motor trucks or trailers may be used on any road or highway which are not part of the State reward system: Provided, That should any improved highway be damaged by the use of chains or other non-skidding devices, the person, company or corporation owning or operating such vehicle, shall be liable to arrest and penalties as hereinafter provided.

(95) SEC. 7. All motor trucks or trailers, now operating or hereafter placed in operation, upon the public highways of this State, shall have placed upon them information relative to their height of wheel, width of tire, gauge, width over all, weight and carrying capacity. This information shall be conspicuously placed upon the vehicle.

(96) SEC. 8. On the rear axle three-quarters of the

gross weight of a motor truck or trailer, and its respective carrying capacity, must be within the limits of the schedule of the respective diameters of wheel, size of tire, and speed per mile, as shown in the schedule under section fourteen, this act: Provided, That trailers having two wheels, at least three-quarters of the gross weight of the trailer and its respective load shall be upon the axle of the trailer.

(97) SEC. 9. The front axle shall carry the remainder of the weight of a motor truck or trailer and load combined, and must be within the limits of the schedule of the respective diameter of wheel, size of tire and speed per mile, as shown in the schedule for single tires, under section fourteen, this act.

(98) SEC. 10. This act shall apply to motor trucks or trailers used as busses for carrying passengers.

(99) SEC. 11. This act shall not apply to farm implements or machinery used in road construction.

(100) SEC. 12. The size of tire and height of wheel shall be taken as that size printed upon a tire by the manufacturer.

(101) SEC. 13. When a truck is hauling a trailer, the speed shall be governed by the vehicle having the lowest mile per hour rating.

(102) SEC. 14.

SCHEDULE FOR THE REGULATION OF MOTOR TRUCKS AND TRAILERS UPON THE HIGHWAY.

Table for a Wheel of 32 inches Diameter:

Size of Tire, in Inches.	SINGLE TIRE.		DOUBLE TIRE.	
	Maximum Wheel Load in Pounds.	Miles Per hour.	Maximum Wheel Load in Pounds.	Miles Per Hour.
2	700	20	1400	18
2½	900	20	1800	18
3	1200	20	2400	18
3½	1600	20	3200	16
4	1900	18	3800	14
5	2200	16	4400	13
6	2700	14	5400	12
7	3200	12	6400	10

For a thirty-four-inch wheel, multiply the above maximum wheel load figures by one and one-tenth.

For a thirty-six-inch wheel, multiply the above maximum wheel load figures by one and two-tenths.

For a thirty-eight-inch wheel, multiply the above maximum wheel load figures by one and three-tenths.

For a forty-inch wheel, multiply the above maximum wheel load figures by one and four-tenths.

For a forty-two-inch wheel, multiply the above maximum wheel load figures by one and five-tenths.

For a forty-four-inch wheel, multiply the above maximum wheel load figures by one and six-tenths.

(103) SEC. 15. Whenever by reason of the thawing of frost, or rains, the roads are in soft condition, the maximum carrying capacity of tires on all vehicles shall be limited to one-half the carrying capacity of tires as provided in this act.

(104) SEC. 16. Any person, firm or corporation which moves, or causes to be moved any vehicle over or along the public highways contrary to the provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof before a justice of the peace or other court having competent jurisdiction, shall be subject, for each offense, to a fine of not less than five dollars nor more than fifty dollars, or imprisonment in the county jail for not to exceed thirty days, or both such fine and imprisonment at the discretion of the court: Provided, That the provisions of this act shall not apply to the moving of any vehicle, for which a permit has been granted by the highway officials having jurisdiction. Any permit so given shall state all conditions thereto, shall be in writing, and shall have effect not longer than thirty days from the date when issued.

(105) SEC. 17. It shall be the duty of the sheriff of each county to cause to be made as his deputies all county, district and township highway commissioners, and others where necessary, and these deputies shall have power to arrest on sight or upon a warrant any person having violated any provisions of this act. Any such deputy who shall wilfully disregard enforcing the provisions of this act shall be guilty of neglect of duty.

(106) SEC. 18. This act shall not apply to public highways in cities or villages, except as to state rewarded roads.

Hauling of Trailers.

AN ACT to regulate the hauling of trailers upon the public highways of this State by or with any motor truck or other motor propelled vehicle, and to provide a penalty for the violation hereof.

[Act 8, P. A. 1919, Ex. Sess.]

The People of the State of Michigan enact:

(107) SECTION 1. It is hereby declared to be unlawful to haul any trailer or trailers by or with any motor truck, or other motor propelled vehicle, on any of the public highways of this State, except in compliance with the provisions of this act. In no case shall any trailer carrying a load in excess of that provided in act one hundred thirty-two of the Public Acts of nineteen hundred seventeen, be so hauled on any such highway; nor shall any person haul, or cause to be hauled, by or with any motor truck, or other motor propelled vehicle, more than two trailers. In any case the aggregate length of the propelling truck, or other vehicle, and the trailers as loaded, shall not exceed sixty feet; nor shall the width of the load carried by any such trailer exceed eight feet and six inches: Provided, That with the permission in writing of the high-

way commissioner of the township, or the public highway officials of the city or village, poles having a greater length than sixty feet, may be hauled on trailers, subject to such reasonable conditions as such commissioner or municipal authorities may prescribe.

(108) SEC. 2. All trailers hauled by or with any motor truck, or other motor propelled vehicle, must be so attached to such truck or vehicle, and to each other if more than one trailer is hauled, with such form of coupling device as will prevent such trailer or trailers from being deflected more than six inches from the path of the towing vehicle's wheels. Trailers must also be connected to the towed vehicle, or to each other, by suitable safety chains, one on each side of the coupling. Each such chain so used shall be of sufficient strength to haul the trailers when loaded. All trailers so hauled on the public highways between the hours of one hour after sunset and one hour before sunrise, shall carry a green light on the left-hand side of each trailer, which light shall be so affixed as to be plainly visible to the drivers of other vehicles, or to persons using such highway. A red light shall be properly affixed to the rear of the last trailer, so hauled, between the hours above stated. The speed of any motor truck or other motor propelled vehicle hauling a single trailer shall not exceed fifteen miles per hour, and if two trailers are so hauled, such speed shall not exceed ten miles per hour on any public highway.

(109) SEC. 3. This act shall not apply to farm implements or machinery used in road construction.

(110) SEC. 4. Any person or persons, hauling any trailer or trailers on any public highway of this State by or with any motor vehicle, or motor truck, in violation of this act shall be deemed guilty of a misdemeanor and upon conviction, shall be punished by a fine not exceeding twenty-five dollars or by imprisonment in the county jail for not exceeding one month or both such fine and imprisonment in the discretion of the court.

Garage Keeper's Lien.

AN ACT to establish, protect and enforce by lien the rights of garage keepers, who furnish labor or material for storing, repairing, maintaining, keeping or otherwise supplying automobiles or other motor propelled vehicles.

[Act 312, P. A. 1915.]

The People of the State of Michigan enact:

(111) §4833. SECTION 1. That every garage keeper who shall in pursuance of any contract, expressed or implied, written or unwritten, furnish any labor, material or supplies shall have a lien upon any automobile or other motor propelled vehicles stored, maintained, supplied or repaired by him for the proper charges due for the storage, maintenance, keeping and repair thereof and for gasoline, electric current or other accessories and supplies furnished or expenses bestowed or labor performed thereon at the request or with the consent of the registered owner of the license plates of said motor vehicle, and such garage keeper may detain such automobile or other motor

propelled vehicle at any time it may be in his possession within ninety days after performing the last labor or furnishing the last supplies for which such lien is claimed.

(112) §4834. SEC. 2. If such charges are not paid within ninety days after personal service of a claim of lien together with an itemized statement of the account upon the registered owner of the license plates of said automobiles or other motor propelled vehicles, said garage keeper may advertise and sell said automobile or other motor propelled vehicle at public auction, in the same manner and after the same notice required in sales of property seized on chattel mortgage, to the highest bidder to satisfy said claim, and the garage keeper may bid on the vehicle so offered for sale. Any surplus received at said sale shall, after all charges of said garage keeper have been paid and satisfied and all costs of sale have been deducted, be returned to the owner of said automobile or other motor propelled vehicle.

(113) §4835. SEC. 3. Wherever in the act is used the term "garage keeper," it shall be construed to include all persons who for hire or reward, publicly offer to store, maintain, keep and repair automobiles and other motor propelled vehicles and to furnish accessories and supplies for automobiles or other motor propelled vehicles for the transportation of persons or merchandise upon and over the public street and highways: Provided, That in municipalities wherein are in force any laws or ordinances relative to the regulation and licensing of garages, no person shall be entitled to avail himself of the provisions of the act, unless he shall, during the period of the whole time covered by his claim for lien, have been duly licensed and shall have fully complied with all laws and ordinances relative to the licensing of garages.

STATE OF MICHIGAN

ATTORNEY GENERAL'S DEPARTMENT

LANSING

June 30, 1921.

HON. CHARLES J. DELAND,
Secretary of State,
Lansing, Michigan.

MY DEAR SIR:

We have yours of the 24th inst. in which you seek an interpretation of the word "owner" as used in section 1, subdivision (c), Act 46 of the Public Acts of 1921.

As we understand the question it is, should the contract vendor or the contract vendee be classified and denominated as "owner" in the registration and certification of title under the above act?

We are of the opinion that the contract vendee is the person who should be classified and denominated as "owner" under this act. This conclusion is warranted from the use of language in subdivision (c), which is,

"The term 'owner' shall also include any person, firm, association or corporation renting a motor vehicle or having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days."

The very evident purpose of this section is to include

as "owners" all persons having the exclusive use, control and possession of the motor vehicle either by lease or in any other legal manner, for a period greater than thirty days. The language of this section would clearly include the contract vendee, who, under his contract, ordinarily, has the exclusive and unrestricted use and control of the motor vehicle at all times and at all places, subject to the defeat of such right only by the nonpayment according to the contract. In common parlance such a contract vendee is always termed the owner and is the only person who can be properly designated and certified as "owner" under this act.

It is to be presumed that the legislature used this word in its commonly accepted legal meaning.

"The word 'owner' is a word of general importance and includes equitable ownership as well as strictly legal ownership."—Words and Phrases, Vol. 6, p. 5141.

"The term 'owner' in an insurance policy, providing that it should be void, if the insured is not the owner of the property, includes an equitable ownership, although the bare legal title is in another."—Martin vs. State Insurance Company, 44 N. J. L. 485.

Bouvier's Dictionary defines "owner" as follows:

"He who has dominion over a thing, real or personal, corporal or incorporeal, which he has a right to enjoy and to do with as he pleases, even to spoil or destroy it, as far as the law permits, unless he be prevented by some agreement or covenant which restrains his right."

An examination of the legislation in this State having to do with the subject of motor vehicles discloses that in all of the statutes the legislature has used the word "owner" in the common and accepted meaning as above set forth.

Act 219 of the Public Acts of 1917,
Act 220 of the Public Acts of 1917,
Act 391 of the Public Acts of 1919.

This use and interpretation of the word "owner" is very conclusively established by that statutory legislation giving rights of civil actions for damages against "owners" of motor vehicles in cases wherein the motor vehicle is negligently operated by persons other than the owner, but with his consent and permission. Under this statute we hardly think that a contract vendor would desire to be classified and denominated as "owner" and, indeed, it was not the purpose of the statute that it should be.

Our Supreme Court, in the case of Daugherty vs. Thomas, 174 M. 375, has construed the term "owner" under this civil liability statute, and in its construction has adopted a definition of ownership expressed as follows:

"The owner of property is one who has dominion over it, and who has the right to enjoy and do with it as he pleases, unless he be prevented by some contract or law which restrains his right."

Therefore, both by virtue of the broad language of the section itself, and also by reason of the commonly accepted interpretation of the word "owner", as used in the section, we conclude, that as between contract vendor and contract vendee, the contract vendee is the proper person to be denominated "owner" and that your certificate of title should certify him to be the "owner", subject to the contract vendor's lien therein specified.

Yours very truly,

A. B. Dougherty,

Deputy Attorney General.

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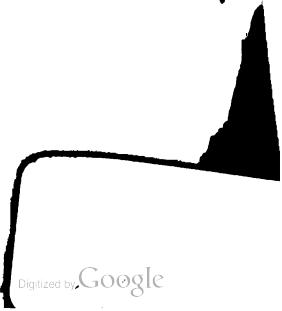
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